

**B.A-I PAPER-B**

**P. G. DEPARTMENT OF PUBLIC ADMINISTRATION**

**PGGCG-11, CHANDIGARH**

**JUDICIAL CONTROL  
OVER ADMINISTRATION**

# **REASONS/GROUNDS FOR JUDICIAL INTERVENTION**

- Abuse of power
- Lack of jurisdiction
- Error of law
- Error in fact-finding
- Procedural error

## Abuse of power

If the administrator uses his authority vindictively:

- to harm some persons
- for private reasons.

## Lack of jurisdiction

If the administrator commits jurisdictional errors like:

- absence of jurisdiction,
- excess of jurisdiction,
- refusal to exercise jurisdiction

## Error of Law

If the administrator:

- misinterprets a law which is to be enforced and
- imposes upon citizens an obligation/responsibility which is absent from law

## Error in fact-finding

If the administrator:

- has erred in discovering facts and
- thus may act on wrong assumptions,
  - affecting the citizen/s adversely

## Procedural Error

- Legal competency of the administrative agency is not sufficient for validity of administrative decision.
- Courts insist that administrators follow the procedure as laid down by law

## Judicial remedies through WRITS

Judicial control over administration operates through WRITS through Constitution of India

### **Fundamental Right Right to Constitutional Remedies**

- Article-32 --- Supreme Court
- Article-226 --- High Court

## *HABEAS CORPUS*

“to have the body” or “to produce the body of”

- Remedy for a person wrongfully detained or restrained
  - Order to bring the person in custody to court
    - Show cause for his detention

# *MANDAMUS*

“we command”

- Order issued by a superior court to a subordinate Court, tribunal, board, corporation or any administrative officer requiring performance of a specific duty fixed by law/associated with his office.
- May also be for preventing from doing an act which the official is not entitled to do



## *CERTIORARI*

“command” or “order”

- To a subordinate court/tribunal for transferring the records of a case or matter pending before it to the superior court
- If the order of the subordinate court is found to be without jurisdiction/against the principles of natural justice, it is quashed

# *PROHIBITION*

“command to prohibit”

- Only against judicial authorities
- By the superior court to subordinate court/tribunal to refrain from what it is about to do
- Prevents them from usurping or assuming jurisdiction which it does not possess

## *QUO-WARRANTO*

“by what authority”

- If any person wrongfully usurps an office, he is prevented from continuing in that office

# LIMITATIONS/CRITICISM

- Scope is not comprehensive/all administrative actions do not come under judicial purview
- Slow and complex process
- Costly process
- Inadequate and ineffective remedies
- Judges don't have complete knowledge of administrative technicalities